

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7107

BILL NUMBER: SB 333

DATE PREPARED: Feb 24, 2002

BILL AMENDED: Feb 21, 2002

SUBJECT: Dockside Gaming and Pull Tabs.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill authorizes dockside gaming, pari-mutuel pull tabs, and a riverboat to be located in a historic preservation district in the towns of French Lick and West Baden. The bill provides for the ownership, licensure, and management of the French Lick/West Baden riverboat. The bill allows up to 750 pull tab terminals and adds pull tab wagering and admissions taxes. It provides for the distribution of taxes collected at the French Lick/West Baden riverboat. The bill changes the structure of the riverboat admissions tax to permit a riverboat owner to collect the tax on a per patron per day basis or on the basis of a count of the patrons on board a riverboat at two hour intervals. It also changes the riverboat wagering tax to a graduated tax. The bill allows barges under certain circumstances. The bill also provides for revenue sharing of riverboat admissions taxes and devotes \$7,000,000 of the riverboat wagering taxes collected from the Lake Michigan riverboats to the Shoreline Environmental Trust Fund. The bill limits the number of electronic gaming devices that a riverboat may contain. The bill also provides that a person may own up to a 100% interest in not more than two riverboats.

Effective Date: (Amended) Upon Passage; July 1, 2002.

Explanation of State Expenditures: (Revised) *Pari-mutuel Pull Tabs:* The bill requires the Indiana Gaming Commission (IGC) to regulate and administer pari-mutuel pull tab operations. The IGC would incur additional administrative expenses relating to the licensing and regulation of pari-mutuel pull tab operations and to the licensing of suppliers of pari-mutuel pull tab terminals and devices. The bill allows the IGC to impose an administrative fee on race track or satellite facility permit holders offering pull tab games in an amount that allows the IGC to recover the costs of administering pari-mutuel pull tabs. The bill also requires that the holder of a supplier's license bear the cost of any investigation relating to the licensee. The bill also allows the Commission to contract with the Indiana Horse Racing Commission for the provision of services necessary to administer pari-mutuel pull tab games.

Purchasing Goals: The bill establishes minority and women's business purchasing goals for horse racing

track and satellite facility owners selling pari-mutuel pull tabs. It places responsibility for enforcement of these requirements under the Horse Racing Commission. The bill also establishes the Women and Minority Business Assistance Fund to be administered by the Horse Racing Commission. The bill requires that fines for violations of the minority and women's business purchasing requirements applying to owners of facilities selling pull tabs are to be deposited in the Fund. The bill specifies that the money in the Fund is to be used to assist women and minority business enterprises. The bill also provides that expenses of administering the Fund must be paid from money in the Fund. Given the limited number of racetrack and satellite facility permit holders, the responsibilities of this provision reasonably could be fulfilled by the Commission with its current resources. The February 4, 2002, state staffing table indicates that the Horse Racing Commission has two vacant full-time positions.

Orange County Riverboat: The Indiana Gaming Commission (IGC) would incur additional administrative expenses relating to the licensing of, and regulation of gaming at, the Orange County riverboat casino. As with the existing riverboat casinos, such administrative costs will be covered with revenue from license fees and the Riverboat Wagering Tax. The Riverboat Owner's License for the Orange County casino would be issued to the Historic Preservation District containing the casino. The District would be operated jointly by French Lick and West Baden Springs. While the bill would exclude the District from paying the Owner's application and license fees, any cost of the investigation relating to issuance of the license would be covered by a special investigation fee imposed on person hired by the District to operate the casino. The bill also would establish a new license for this Operating Agent. Costs relating to this licensing responsibility would be covered via a license fee and investigative charges imposed on the agent.

Explanation of State Revenues: (Revised) *Riverboat Gaming:* The bill makes three changes that are expected to impact revenue from admission and wagering taxes on riverboat gaming.

(1) The bill would permit a riverboat owner to commence dockside gaming operations allowing for continuous boarding of riverboat patrons. The bill also would allow barge-based gaming operations to be conducted by a riverboat owner if a federally recognized Native American Indian tribe has applied to the U.S. Bureau of Indian Affairs to have land in a contiguous state taken into to trust for a land based casino that is within 30 miles of the riverboat. It appears that this provision applies only to Blue Chip casino in Michigan City. The change to dockside gaming is expected to increase both wagering and admissions on riverboats that operate in such a manner. As a result, dockside gaming is expected to increase revenue from both the Riverboat Wagering Tax and the Riverboat Admission Tax. While the bill would still allow riverboats to cruise, the fiscal impacts outlined below assume that all riverboat owners would choose to commence dockside operations. Since this change would be effective July 1, 2002, the impact would begin in FY 2003.

(2) The bill would change the 20% Riverboat Wagering Tax to the graduated rate structure presented in the table below. This change would be effective July 1, 2002 and, thus would impact FY 2003 revenue.

Annual Adjusted Gross Wagering Receipts	Tax Rate
Less than \$100 M	20%
At least \$100 M but less than \$150 M	22.5%
At least \$150 M but less than \$250 M	25%
At least \$250 M but less than \$350 M	30%
At least \$350 M	35%

(3) The bill would change the \$3 Riverboat Admission Tax to either: (1) \$4 imposed with respect to the number of persons on board a riverboat when patron count is recorded after the first hour of daily operation and every two hours thereafter; or (2) \$7 per patron boarding the riverboat each day. The bill would allow the riverboat owner to select the method for imposing the admission tax. (The bill would impose a \$5 or \$8 admission tax, respectively, on a riverboat owner who conducts barge-based gaming operations. However, due to a lack of information, no estimates have been performed relating to barge-based operations.) Since the change in the admission tax would be effective July 1, 2002, the impact would begin in FY 2003. The admission tax over \$3 would be distributed to the counties without riverboats based on population in the non-riverboat counties. In addition, the bill would change the distribution of the existing \$3 admission tax by capping the distributions to the riverboat docksite cities and counties, and the docksite county convention and visitors bureau at the FY 2001 levels.

The bill also limits the number of electronic gaming devices that a riverboat casino (except for a riverboat casino in Orange County) may contain to 3,200. The bill does not limit the number of live gaming devices a riverboat may contain. Under the bill, however, a riverboat with more than 2,880 electronic gaming devices on July 1, 2002, could add up to 320 electronic gaming devices to the number contained on the riverboat on that date. As of December 2001, the number of electronic gaming devices on Indiana riverboats ranged from 1,344 to 2,493. It is assumed that the limit established by the bill will not alter the estimated impact of dockside gaming.

Wagering Tax Impact: The estimated impact of dockside gaming operations and the graduated tax rate structure on revenue from the Riverboat Wagering Tax is presented in the table below. This assumes that all of the existing riverboats will begin dockside gaming operations. Under current law, the state share of the Riverboat Wagering Tax is equal to 75% and is deposited in the Lottery and Gaming Surplus Account (LGSA) within the Build Indiana Fund. The bill would change this distribution by requiring the first \$7.0 M annually collected from the 5 Lake Michigan riverboats to be deposited in the Shoreline Environmental Trust Fund. After this distribution, 75% of the remainder would be distributed to the LGSA. The bill does not change the distribution of wagering tax revenue from the riverboats on the Ohio River.

Estimated Change in Wagering Tax Revenue and Distribution

	FY 2003	FY 2004
Total Increase	\$189.9 M	\$196.6 M
State Share (75%)	137.2 M	142.2 M
Local Share (25%)	52.7 M	54.4 M

Admission Tax Impact: The estimated impact of dockside gaming operations coupled with the new methods of imposing the Riverboat Admission Tax is presented in the table below. This estimate makes several assumptions. First, it assumes that all existing riverboats will begin dockside gaming operations. It also assumes that riverboat owners will prefer to pay \$7 per patron per day as opposed to paying \$4 when a patron first enters the riverboat and then \$4 each time that patron is counted during a periodic (2-hour) patron counts. This assumption is based on state gaming reports indicating that riverboat patrons on average stay on the boats for just over four hours. In addition, the owner would avoid conducting the periodic patron counts by paying the daily tax.

Estimated Change in Admission Tax Revenue and Distribution

	FY 2003	FY 2004
\$3 Admission Tax		
Total	(\$38.0 M)	(\$36.2 M)
State Fair Comm. (\$0.15)	(1.9 M)	(1.8 M)
Div. of Mental Health (\$0.10)	(1.3 M)	(1.2 M)
Horse Racing Comm. (\$0.65)	(8.2 M)	(7.8 M)
Total State Share	(11.4 M)	(10.9 M)
\$3 Admission Tax		
Local Units (\$2.10)	(26.6 M)	(25.3 M)
Additional \$4 Admission Tax		
Local Units (\$4.00)	116.0 M	118.3 M
Total Local Share	89.4 M	93.0 M

Pari-mutuel Pull Tabs: The bill authorizes the sale of pari-mutuel pull tabs effective July 1, 2002, at Hoosier Park, the Marion County satellite facility operated by Hoosier Park, Indianapolis Downs (to be located in Shelby County), and a Marion County satellite facility operated by Indianapolis Downs. The bill limits the number of electronic pull tab terminals or devices that may be installed to 750 per facility. The bill also prohibits pari-mutuel pull tab sales in a county where a riverboat casino is docked. The bill imposes new wagering and admission taxes on facilities selling pari-mutuel pull tabs. (See below under *Explanation of Local Revenues* for an explanation of the admission tax.)

The Pari-mutuel Pull Tabs Wagering Tax is equal to 30% of the adjusted gross receipts (total wagers minus winnings paid to bettors and uncollectible receivables) from pull tab sales. It is estimated that annual revenue from this tax from Hoosier Park and the Marion County satellite facility operated by Hoosier Park could potentially total \$23.2 M to \$41.3 M. Under the bill, 75% of this revenue would be distributed to the state General Fund. This distributed is estimated to total about \$17.4 M to \$31.0 M annually. The estimates below are based on actual admissions, and admissions estimates derived from betting handles at Hoosier Park and existing satellite facilities. Since admissions and betting handle for Indianapolis Downs is unknown at this time, no estimates are provided for the impact of pull tab sales at its facilities.

License Fees: The bill also establishes an annual fee of \$5,000 for a pari-mutuel pull tabs supplier's license. A person must obtain a supplier's license to furnish pari-mutuel pull tab terminals or devices in Indiana. Presumably, the number of suppliers necessary to provide 3,000 pull tab terminals to four facilities is minimal. Thus, the license is expected to have a minimal impact.

Existing Pari-mutuel Admission Tax: Revenue from the existing \$0.20 Pari-mutuel Admissions Tax could potentially increase if pari-mutuel pull tab sales serve to increase paid attendance to live horse racing at Hoosier Park. The total impact could potentially total \$78,000 to \$166,000 annually. Under current law, 50% or \$39,000 to \$83,000 would be distributed to the state General Fund.

Orange County Riverboat: Provided a riverboat casino commences operations in Orange County, the bill could potentially generate \$4.6 M to \$5.1 M annually in additional revenue to the *state* from the Riverboat Wagering and Admission Taxes. [Note: This estimate may be updated as new information becomes available.]

The bill would eliminate the Patoka Lake riverboat license and instead authorize licensing a riverboat casino located in Orange County within a Historic Preservation District that consists solely of the real property owned by the historic resort hotels in French Lick and West Baden Springs. The owner's license for the casino would be issued to the Historic Preservation District operated jointly by French Lick and West Baden Springs. The District would contract with a person holding an Operating Agent's License to operate and manage the casino. The Operating Agent's License would be issued by the Indiana Gaming Commission. The bill also limits to 500 the number of electronic gaming devices at the Orange County riverboat.

Under the new admission and wagering tax structures, an Orange County casino could potentially generate \$15.8 M to \$17.3 M in additional annual revenue from the Riverboat Wagering and Admission Taxes. This estimate is based on the average Wagering and Admission Tax receipts during FY 2000, FY 2001, and the period from November 2000 to October 2001 from (1) the three smallest riverboats with respect to casino square feet and gaming positions and (2) the three riverboats having the lowest admissions totals. Totals for the November 2000 to October 2001 period also include wagering and admissions at the Belterra Casino. These estimates assume that an Orange County casino would be relatively small and that wagering overall would increase proportionately with the addition of the casino. The estimates also assume that admissions and wagering at the Orange County casino would be roughly 65% lower than that exhibited at the smallest riverboats because of the limitation on electronic gaming devices. On average, these riverboats currently operate about 1,400 electronic gaming devices. In addition, wagering on electronic gaming devices totals approximately 80% of the wagering total at these riverboats based on review of recent monthly revenue reports. For purposes of the admission tax estimate, it is also assumed that the riverboat would pay the \$7 daily admission tax rather than \$4 based on the periodic patron count.

It is important to note that the bill likely would not impact state revenues until FY 2004 or FY 2005. This

conclusion is based on the start-up times for the ten existing riverboat casinos as well as the fact that the bill would require voters in French Lick and West Baden Springs to pass a referendum allowing riverboat gambling in the county. It has taken an average of 17 months from the time the certificate of suitability was issued by the Gaming Commission for the ten existing riverboats to commence gaming operations. (The certificate of suitability is issued by the Gaming Commission to a person who has been chosen to receive a Riverboat Owner's License.)

Under the bill, 50% of the Wagering Tax revenue from the Orange County casino would be distributed to the Lottery and Gaming Surplus Account (LGSA) in the Build Indiana Fund. Thus, estimated additional revenue to the LGSA would range from \$4.4 M to \$4.8 M. Also, under the bill, \$.10 of the current law \$3 Admission Tax at the Orange County casino would be distributed to the State Division of Mental Health. This distribution is estimated to total \$100,000 to \$110,000 annually. (Note: The bill does not provide for the distribution of the additional \$4 admission tax which is estimated to generate \$4.0 M to \$4.4 M per year.

License Fees: The bill also would impact revenue to the state from the Occupational License Fee and would establish a Operating Agent's License Fee. The bill excludes the Historic Preservation District from paying application and license fees relating to the Owner's License. Given that there are already a number of licensed supplier's operating in the state, supplier's licenses may not be impacted by the bill. License fee revenue is distributed to the State Gaming Fund.

The Occupational License Fee is imposed on individuals employed in certain riverboat gambling occupations. The Application Fee is dependent on the type of license obtained, ranging from \$75 to \$1,000. The Annual License Fee is also dependent on the type of license obtained, ranging from \$25 to \$100. Revenue from the Application Fee totaled approximately \$1.26 M in FY 2001; and revenue from the Annual License totaled \$202,975 in FY 2001. There would be one operating agent licensed for the Orange County casino. The bill requires an application fee to be determined by the Gaming Commission for an Operating Agent's License. The initial license fee for an operating agent is \$25,000, with an annual renewal fee of \$5,000.

Explanation of Local Expenditures: (Revised) *Historic Preservation District:* The bill would require the Orange County riverboat casino to be owned by and located in a Historic Preservation District that consists of the real property owned by the historic resort hotels in French Lick and West Baden Springs.

The District would be established under an interlocal agreement between French Lick and West Baden Springs and would be required to contract with a person to operate the riverboat casino. The ordinance entering the interlocal agreement must provide for a Historic Preservation Commission consisting of: (1) a member of the French Lick town council; (2) a member of the West Baden Springs town council; (3) the owner of a historic resort hotel in West Baden Springs or the owner's designee; (4) the owner of a historic resort hotel in French Lick or the owner's designee; (5) an individual appointed by the Historic Landmarks Foundation of Indiana; (6) a resident of French Lick; and (7) a resident of West Baden Springs. Commission members serve without compensation except for reasonable expenses. The bill would require the Commission hold public meetings and to keep a public record of its resolutions, proceedings, and actions. The Commission would be subject to laws relating to the deposit of public money and would have to deposit money under the advisory supervision of the State Board of Finance. The Commission also would be subject to examination by the State Board of Accounts. Under the bill, the Commission would be required to: (1) designate a fiscal agent who must be a fiscal officer of either French Lick or West Baden Springs; (2) employ professional staff to assist in carrying out its duties; (3) engage consultants, attorneys, accountants, and other professionals necessary to carry out its duties; (4) own the riverboat license; (5) develop RFPs for persons

interested in operating and managing the riverboat; and (6) recommend a person to the Indiana Gaming Commission to operate the riverboat.

The bill establishes the French Lick and West Baden Community Trust Fund. The bill requires the net income derived from the riverboat after all operating expenses to be deposited in the Fund. The bill defines operating expenses to be: (1) money spent by the Historic Preservation Commission in exercising its powers and (2) management fees paid to the riverboat's licensed operating agent. The bill requires that the Commission manage and develop the Fund and the assets of the Fund. It also provides that expenses of administering the Fund are paid from the Fund. The Commission has the sole authority to allocate money from the Fund for: (1) the preservation, restoration, maintenance, operation, and development of the French Lick and West Baden Springs historic resort hotels; and (2) infrastructure projects and other improvements in the surrounding community. The bill requires allocations to the two hotels to be divided equally. The bill also requires that the Commission prepare an annual report concerning the Fund for submission to the Legislative Council.

Gaming Referendum: The bill would prohibit the Indiana Gaming Commission from issuing an Owner's License for an Orange County riverboat until voters in French Lick and West Baden Springs pass a referendum allowing riverboat gambling in the county. The bill contains provisions allowing the referendum to be held at a primary, general, or special election. However, the bill also contains provisions requiring the referendum to be held during the primary election on May 7, 2002.

Explanation of Local Revenues: (Revised) *Riverboat Gaming:* Dockside gaming and the graduated wagering tax structure are expected to generate additional wagering tax revenue for local units equal to \$52.7 M in FY 2003 and \$54.4 M in FY 2004. The changes to the admission tax are expected to result in a net revenue gain to local units statewide equal to \$89.4 M in FY 2003 and \$93.0 M in FY 2004. (See revenue tables and discussion above under *Explanation of State Revenues.*)

The bill would change the current distribution of the wagering tax by requiring the first \$7.0 M annually collected from the 5 Lake Michigan riverboats to be deposited in the Shoreline Environmental Trust Fund. After this distribution, 25% of the remainder would be distributed to local units as provided in current statute. The bill does not change the distribution of wagering tax revenue from the riverboats on the Ohio River. For Lake Michigan riverboats, and for riverboats on the Ohio River that are docked in the largest city in the county, the local share of Wagering Tax revenue is distributed to the city designated as the home dock. For riverboats on the Ohio River that are not docked in the largest city in the county, the local share of Wagering Tax revenue is distributed to the county in which the riverboat is docked.

The bill also makes changes to the admission tax that could potentially reduce revenue from the existing \$3 tax to local units where the riverboats are docked. Under current statute the following local distributions are made from each \$3 admission tax in riverboat counties contiguous to either Lake Michigan or the Ohio River:

- \$1.00 to the city in which the riverboat is docked;*
- \$1.00 to the county in which the riverboat is docked; and
- \$0.10 to the county convention and visitor bureau or promotion fund.

*In counties along the Ohio River in which the riverboat is not docked in the largest city in the county, this \$1.00 is also distributed to the county.

It is assumed that that riverboat owners will prefer to pay \$7 per patron per day as opposed to paying \$4 when a patron first enters the riverboat and then \$4 each time that patron is counted during a periodic (2-hour) patron counts. As a result, the local units receiving revenue from the existing \$3 admission tax will experience a revenue loss from current levels totaling about \$26.6 M in FY 2003 and \$25.3 M in FY 2004. (Note: The bill also caps the distribution of admission tax revenue to these local units at their FY 2001 distribution level; with additional collections to be distributed to non-riverboat counties based on population. Given the expected revenue loss, this cap is not expected to have an impact in the near future.) The additional \$4 admission tax that is expected is to be distributed to non-riverboat counties on the basis of population. This tax is estimated to generate \$116.0 M in FY 2003 and \$118.3 M in FY 2004 for the non-riverboat counties only.

Pari-mutuel Pull Tabs: The bill imposes two taxes on Pari-mutuel Pull Tabs that would impact local units. Under the bill, 25% of the revenue from the Wagering Tax would be distributed to local units (see *Explanation of State Revenues* for description of this tax). In addition, a \$2 Admission Tax on the pull tab facilities would be distributed to local units. Since information on admissions and wagering at Indianapolis Downs and a potential Marion County satellite facility are unknown at this time, no estimates are made relating to these facilities.

It is estimated that the wagering tax from pull tab operations at Hoosier Park and the Marion County satellite facility could generate a total of \$5.8 M to \$10.3 M annually. Under the bill, about \$3.4 M to \$6.0 would be distributed to the city of Anderson and about \$2.4 M to \$4.3 M would be distributed to local units in Marion County. The admission tax on pull tab operations at these facilities is estimated to generate \$2.8 M to \$4.9 M annually to local units. Under the bill, this would result in annual distributions to: (1) Marion County school corporations totaling \$1.2 M to \$2.1 M; (2) Madison County totaling \$802,000 to \$1.4 M; and (2) school corporations in Madison County totaling \$802,000 to \$1.4 M. The distributions to school corporations would be divided on a pro rata basis.

Orange County Riverboat Tax Revenue: An Orange County casino could potentially increase local revenue from the Riverboat Wagering and Admissions Taxes by approximately \$7.3 M to \$7.9 M annually. This estimate may be updated when new information becomes available.

Under the bill, 50% of the Wagering Tax revenue is distributed to Orange County and local units in Orange County. This distribution is estimated to total \$4.4 M to \$4.8 M annually. Also, under the bill, \$2.90 of the current law \$3 Admission Tax at the Orange County casino would be distributed to local units in Orange County, and Orange, Crawford, and DuBois counties. For purposes of the admission tax estimate, it is also assumed that the riverboat would pay the \$7 daily admission tax rather than \$4 based on the periodic patron count. This distribution is estimated to total \$2.9 M to \$3.2 M annually. (Note: The bill does not provide for the distribution of the additional \$4 admission tax which is estimated to generate \$4.0 M to \$4.4 M per year.)

Orange County Riverboat Income: Under the bill, the owner of the license for the Orange County riverboat casino would be the French Lick/West Baden Springs Historic Preservation District. (Net income from the casino after operating expenses (Commission expenses and management fees to the operating agent) would be deposited in the French Lick and West Baden Community Trust Fund (see *Explanation of Local Expenditures*).

Currently, sufficient data is unavailable relating to typical casino profit margins. However, based on the Wagering Tax estimate for the Orange County casino, Adjusted Gross Receipts (AGR) could potentially total \$44.0 M to \$48.0 M annually. AGR is the difference between total wagering receipts and winnings paid to

gamblers. As a result, net gaming receipts after payment of winnings, wagering taxes, and admission taxes could total approximately \$28.2 M to \$30.7 M. (Presumably, the Historic Preservation District would have no other federal, state, or local tax liability relating to the casino operation.) Remaining expenses that would reduce this total further would include capital and interest expenses relating to the casino property, personnel expenses, and management fees to the licensed operating agent hired to manage the casino. The extent of this cost is currently indeterminable.

State Agencies Affected: Indiana Gaming Commission, Indiana Horse Racing Commission, Division of Mental Health, Department of Natural Resources, Treasurer of State.

Local Agencies Affected: Local units receiving revenue from the Riverboat Wagering Tax; the Riverboat Admission Tax; or the Pari-mutuel Admissions Tax; Crawford County; DuBois County; Orange, Marion, Madison, and Shelby counties and local units in these counties.

Information Sources: Indiana Gaming Commission, *2000 Annual Report to the Governor*, February 28, 2001. Indiana Gaming Commission, *Monthly Summary of Wagering and Admission Tax*, Various Months. Illinois Gaming Board, *Monthly Riverboat Revenue Reports* (Jan. 1996 to Aug. 2001); Illinois Gaming Board, *1999 Annual Report*; Illinois Economic and Fiscal Commission, *Wagering in Illinois: 2000 Update*, September 2000; State Budget Agency, *Lottery and Gaming Revenue Forecast*, January 22, 2001; Bob Lain, State Budget Agency, (317) 232-5610; Indiana Horse Racing Commission, *2000 Annual Report to the Governor*, May 1, 2001; *2000 Annual Report*, Indiana Horse Racing Commission, May 1, 2001; *Indiana Handbook of Taxes and Appropriations, FY 2001*.